

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

GLORIA L. FRANKLIN
CLERK OF COURT



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March 10, 2004

ADMINISTRATIVE PROCEDURES FOR ELECTRONIC CASE FILING

1. Establishment of Electronic Case Filing Procedures: As authorized by this court's CM/ECF Interim Operating Order, effective July 1, 2003, these "Administrative Procedures for Electronic Case Filing" (ECF Procedures) have been established by the Clerk of Court for the United States Bankruptcy Court, Northern District of California. Modifications to these ECF Procedures may be made after conferring with the Chief Bankruptcy Judge or his designee. Advance notice of all modifications to these ECF Procedures will be given via the court's website at: www.canb.uscourts.gov.
2. Scope of Electronic Filing: When ECF is first made available to external users, electronic filing of documents shall be permissive to allow attorneys and trustees to become Registered Participants voluntarily. The court encourages all attorneys and trustees to become Registered Participants and to file electronically as soon as possible during this permissive phase.

Initially, during the permissive phase, the official case file shall be a combination of the paper documents in the case file folders and the electronically filed documents in the electronic case files. Documents filed conventionally by paper will be entered on the docket and filed into the paper case file folders by clerk's office staff. For documents filed electronically, a "slip sheet" (or other physical signal) will be placed in the paper case file folders indicating that the document is only available electronically via CM/ECF and PACER (Public Access to Court Electronic Record).

Later during the permissive phase, each division manager, in consultation with the judge(s) at the respective divisional office(s), will determine when it is most practical and efficient to designate the electronic case files in the CM/ECF system, as the official case record for that division. Until then, for pending cases, the official record will be a combination of the paper documents in the case file folders and the electronically filed documents in the CM/ECF system. Subsequent to the designation of the electronic case files as the official record, all paper filed documents will be

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scanned by clerk's office staff to enable a complete electronic record to be maintained from that point in time forward. After the electronic files are designated the official records for a particular division, all documents filed electronically by the Registered Participants or scanned into the system by clerk's office staff, will only be available electronically via CM/ECF and PACER.

After the designation of the electronic files as the official records for a particular division, all original filed paper documents in all bankruptcy and adversary cases will be scanned into the CM/ECF system by clerk's office staff. On a given day, the documents will be arranged by file date in a "day-file bin" and held for a period of five days by the clerk's office. Parties and attorneys, who wish to retrieve the original paper documents they filed, may visit or send a representative to the respective divisional office to locate the documents from the "day files" for retrieval.

3. Electronic Filing of Documents: Registered Participants shall use a court-issued login and password to access the CM/ECF system. Their use of this login and password will allow them to make entries to the official court docket and to file documents electronically with the court. When a Registered Participant makes an entry to the docket and files documents electronically, the CM/ECF system will automatically generate and send a return e-mail message of the "Notification of Electronic Filing." This Notification of Electronic Filing is equivalent to the conformed copy traditionally stamped "Filed" or "Original Filed." All Registered Participants are highly encouraged to retain the "Notification of Electronic Filing" as proof of electronic filing.
4. Logins and Passwords: In Fall 2003, the clerk's office will post, on the court's web site, a CM/ECF training class schedule. Attorneys in good standing with the court and trustees are encouraged to access the schedule and sign up to attend this training as soon as possible. This court-sponsored CM/ECF training will be held on specified dates in San Francisco, Oakland, San Jose and Santa Rosa. Attorneys and trustees who practice in multiple locations may attend training at the location of their preference. Attorneys and trustees who practice primarily or exclusively in one location are encouraged, but not required, to attend training at that location.

Attorneys and trustees may have up to three employees attend the court-sponsored CM/ECF training (Exceptions to this policy, for four or more employees to attend this court-sponsored training, can be made by contacting the division manager at

the location where the training is offered.). It is recommended that employees attend the training session with the attorney or trustee with whom they work.

To become a Registered Participant, attorneys and trustees shall complete and submit a registration form (available from the court's web site). A training login and password will be provided to the Registered Participant at the training session. Once the Registered Participant has completed the assigned training homework (successfully filing to this court's CM/ECF training data base), they will be issued a new password for the "live CM/ECF" database to begin filing with this court electronically. The court may require Registered Participants to resubmit an executed registration form from time to time as terms and conditions for using CM/ECF change.

Attorneys and trustees must attend a court-sponsored training class at one of the four locations noted above to become a CM/ECF Registered Participant in this court. Attorneys who can demonstrate that they have successfully filed electronically in the past six months with another U.S. Bankruptcy Court may apply to become Registered Participants in this district without having to attend the court-sponsored training. All requests must be made by submitting a completed registration form (available from the court's web site). The request must identify the name and location of the court(s) where the electronic filings were made and must include copies of the system-generated "Notification of Electronic Filings" reflecting the successful filings. The completed request "package" shall be sent via e-mail to the CM/ECF Help Desk at: helpdesk@canb.uscourts.gov ("Request Training Waiver" in the e-mail subject line). All such requests to obtain a CM/ECF system login and password and to waive court-sponsored CM/ECF training are subject to review and approval by the Clerk of Court.

Only attorneys in good standing with the court and trustees will be issued system logins and passwords. Any password issued for electronic filing shall be used exclusively by the Registered Participant to whom the password is assigned or by an employee(s) of such person to whom proper authorization has been given by the Registered Participant. No Registered Participant shall knowingly permit a password to be used by anyone who is not authorized to use the password and no person shall knowingly use the password of a Registered Participant unless such person is so authorized. If an employee of a Registered Participant is no longer permitted such access or if the Registered Participant has reason to believe that the security of their password has been compromised, the Registered Participant shall forthwith contact the

CM/ECF Help Desk at the court's Information Technology Division, (415) 268-2350 to obtain a new password.

A Registered Participant may withdraw for cause or be required to withdraw from participation in the electronic filing component of CM/ECF on order of the court. The Registered Participant shall provide a written notice of withdrawal to the CM/ECF Help Desk, at the address shown above. A court order to withdraw a Registered Participant will be sent by the judicial officer to the CM/ECF Help Desk. Upon receipt of the written request or court order, the Help Desk staff will follow internal procedures to cause the Registered Participant's login and password to be cancelled, and the Registered Participant will be removed from the Notification of Electronic Filing service list(s).

5. Orders: Any order filed electronically by the court has the same force and effect as it would if the judge had affixed the judge's signature to a paper copy of the order, and it had been entered on the docket in a conventional manner.

Registered Participants are directed to the *ECF Division Policies*, which is located in the *Reference Desk* section of the CM/ECF webpage, for specific directions regarding the submission of proposed forms of orders (submitted orders) for each Judge.

6. Exhibits and Attachments: Transmission time for filing documents created by scanning that are more than 25 pages and/or three megabytes in size will frequently time out and fail to file due to system security features. Electronic exhibits and attachments created by scanning (imaging) that are more than 25 pages or more than three megabytes in size must be segmented and filed as multiple attachments (the system will allow multiple attachments to any pleading/document to be filed electronically). All pleadings/documents and attachments/exhibits which are created by scanning (imaging) shall be black and white (without color), in PDF format and the resolution ***should not exceed 200 DPI***.
7. Documents Filed Under Seal: A motion to file a document(s) under seal shall be filed electronically; however the actual document(s) to be sealed shall be filed conventionally, on paper, in accordance with Local Rule 79-5. If the motion itself contains confidential information, the movant shall electronically file and serve a redacted version of the motion to file under seal. The movant shall deliver paper copies of the document(s) to be sealed to the clerk's office at the divisional office of the

assigned judge for *in camera* review. The order of the court authorizing the filing of such document(s) under seal shall be entered by the court or the clerk's office staff and shall indicate that the motion to file document(s) under seal has been so granted. The conventionally filed paper copy of the sealed document(s) will be maintained by the clerk's office in a manner consistent with the Local Rule 79-5(e).

8. Signature and Verified Pleadings: The electronic filing of a pleading/document purportedly signed by the Registered Participant constitutes that person's signature under FRBP 9011 as well as any other applicable rules or statutes. The electronically filed document shall include the Registered Participant's typed name on the signature line.

Pleadings, including but not limited to petitions, lists, schedules and amendments that are required to be verified under FRBP 1008 or to contain an unsworn declaration as provided in 28 U.S.C. 1746, and all affidavits or other pleadings in which a person verifies, certifies, affirms or swears under oath or penalty of perjury concerning the truth of matters set forth in that pleading or document ("Verified Pleading") may be filed electronically. A Registered Participant filing a Verified Pleading electronically shall insure that the electronic version conforms to the original, signed pleading/document. Each signature on the original, signed pleading/document shall be indicated on the electronically filed Verified Pleading with the typed name on the signature line of the person purported to have signed the pleading/document. The electronic filing of a Verified Pleading constitutes a representation by the Registered Participant who files it that the Registered Participant has in his or her possession at the time of filing the fully executed original, signed pleading/document.

9. Retention Requirements: All originally executed pleadings/documents signed by someone other than the Registered Participant (e.g., Verified Pleadings), which are subsequently electronically filed with the court, must be retained by the Registered Participant for five years after the case or adversary proceeding has been closed. The CM/ECF system provides notice of all case closings to Registered Participants. Upon request of the court, the Registered Participant filer must provide to the court the original, signed pleadings/documents for review.
10. Notice of Electronic Filing and Service: All Registered Participants shall maintain a current and active e-mail address with the court to receive Notification of Electronic Filing. Whenever a pleading/document is filed electronically in accordance with these

ECF Procedures, the system will automatically generate the Notification of Electronic Filing by electronic means at the time of docketing. This Notification of Electronic Filing does not constitute service or notice as otherwise required by law. The filing party shall serve the pleading/document upon all persons entitled to notice or service in accordance with the applicable rules. However, if the party to be served agrees in writing with the filer, pursuant to FRCP 5(b)(2)(D), to accept the Notification of Electronic Filing in lieu of service by first class mail and the party to be served is properly listed as a recipient on the Notification of Electronic Filing, the electronic transmission of the Notification of Electronic Filing will be considered the equivalent of service of the pleading/document.

11. Technical Failure: The clerk's office shall deem the U.S. Bankruptcy Court for the Northern District of California's CM/ECF site to be subject to technical failure on a given day if the site is unable to accept filings continuously or intermittently over the course of any period of time greater than two hours after 9:00 a.m. that day. A filing party whose filing is made untimely as the result of a technical failure of the court's CM/ECF site may seek appropriate relief from the court.

Problems occurring on the filer's end, including those related to phone lines, Internet Service Providers (ISP) or hardware and software, will not constitute a technical failure under these procedures nor excuse an untimely filing. A filer, who cannot file a pleading/document electronically because of a problem on the filer's end, must file the pleading/document conventionally or by facsimile pursuant to Local Rule 5-5.

12. Fees: For filings that require a fee, the CM/ECF system will prompt the filer (Registered Participant) to enter credit card information (card number and expiration date) and the payment amount following the transaction. "Credit Card Authorization Forms" are no longer required by the court for CM/ECF credit card transactions. The credit card receipt shall include a reference to the case and docket number. Funds will be automatically charged to the card holder's account by the United States Treasury Department. All credit card filing fee payments are subject to audit and review by clerk's office staff. Any identified discrepancy will be brought to the attention of the filer (Registered Participant).

The CM/ECF system will automatically disable access for Registered Participants with filing fees outstanding at midnight of the filing date. The Registered

Participant whose access to CM/ECF has been disabled will be able to log in to CM/ECF but will not be able to view or file any documents until he or she clicks on the "Utilities" then "Internet Payments Due" and pays the outstanding fees. Once the outstanding fees are paid, the Registered Participant's ability to file and view electronic documents will be immediately enabled. Payments must be made within 24-hours or the case/matter is subject to dismissal/being stricken.

13. Summons in an Adversary Proceeding: To file an adversary proceeding, a Registered Participant shall electronically prepare the standard form 250B, "Summons and Notice of Scheduling Conference in an Adversary Proceeding" (Summons) or for the San Jose division "Summons and Notice of Telephonic Status Conference or Summons and Notice of Status Conference" (Summons) and electronically file it as an attachment to the electronically filed Complaint. The court shall continue to issue these Summons in the conventional, paper (hard copy) form. The deputy clerks will print a hard copy of the submitted Summons from the CM/ECF system and will issue and sign the Summons. This completed hard copy of the Summons, with a blank Certificate of Service on the reverse side, will be returned via first class mail to the filer (to be served in the conventional manner).

In the event an Alias Summons is required, the original hard copy unexecuted Summons (Summons issued but not served) shall be returned to the clerk's office along with a hard copy proposed form of Alias Summons. The deputy clerk will issue and sign the hard copy Alias Summons and will send it via first class mail to the submitting party.

14. Courtesy Copies for Chambers: The judge(s) at each divisional office (with the exception of the Santa Rosa division) have identified certain pleadings/documents which the filer (Registered Participant) must mail/deliver to the court in paper form. Registered Participants are directed to the *ECF Division Policies*, which is located in the *Reference Desk* section of the CM/ECF webpage, for specific directions regarding the pleadings/documents for which courtesy copies for chambers must be provided when filing electronically.
15. Pleadings/Documents to be Filed by Paper: The judge(s) at each divisional office (with the exception of the Santa Rosa division) have identified the pleadings/documents that **may not** be filed electronically and should only be filed with the court in paper form. Registered Participants are directed to the *ECF Division Policies*, which is located in the

Reference Desk section of the CM/ECF webpage, for specific information regarding the pleadings/documents that **may not** be filed electronically.

16. Corrections: Once a pleading/document is electronically filed and becomes part of the electronic record, corrections to the docket may be made only by the clerk's office staff. A pleading/document may be incorrectly filed as the result of e.g., posting the incorrect PDF file to a docket entry, selecting the incorrect document type from the menu selection, or entering the incorrect case number before the transaction is completed. The CM/ECF system will not permit a Registered Participant to withdraw an incorrectly filed document or to change the form of an incorrect docket entry once the transaction has been accepted. Registered Participants shall not attempt to re-file a document incorrectly filed or docketed. Instead, as soon as possible after an electronic filing error is discovered, the Registered Participants should contact the clerk's office at the location where the case is pending and ask the clerk's office staff to make the correction. The Registered Participant should be prepared with the case number and document number for which the correction is being requested. If appropriate, the clerk's office staff will make an entry indicating that the pleading/document was filed in error. The Registered Participant will be advised if the pleading/document will need to be re-filed.
17. CM/ECF System Unavailability: During the hour of 2:00 a.m. to 3:00 a.m. every day and for 24 hours on the third Saturday of every month, the Court's CM/ECF system will be unavailable to Registered Participants for filing due to technical reasons associated with regular system maintenance and back-up operations. Any other downtime will be posted on both the CM/ECF home page and the court's internet site. Registered Participants are instructed to **not attempt** to access this site during these periods of unavailability.
18. Access to CM/ECF via the Clerk's Office Lobby Terminals and PACER: Electronic access to CM/ECF dockets and documents electronically filed in the system is available to the public for viewing at no charge in each of the divisional offices during regular business hours. A fee for a paper copy of an electronic document is required in accordance with 28 U.S.C. Section 1930. In accordance with the ruling of the Judicial Conference of the United States, a user fee will be charged for access to dockets and documents electronically filed in the system through the Public Access to Court Electronic Records System (PACER).

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19. Pro se Filing: For pro se litigants filing with this court, all petitions/pleadings/documents shall be prepared and filed on paper. Pro se litigants shall not have access to electronic filing. After the designation of the electronic files as the official records for a particular division, all pro se paper filings shall be scanned by clerk's office staff to enable an electronic record to be created.